APPENDIX A

Dissenting Opinion of Mr. Justice Schwartzwald in the Appellate Term, Second Department

New York Law Journal—Friday, March 18, 1966

Schwartzwald, J., dissents and votes for reversal and a new trial upon the ground that the gratuitous comment of the jury foreman to one of the plaintiffs as he was leaving the witness stand that "You earned your money" was improper and prejudicial under the circumstances.

APPENDIX B

Order Dismissing Appeal

STATE OF NEW YORK,

IN COURT OF APPEALS

At a Court of Appeals for the State of New York, held at Court of Appeals Hall in the City of Albany on the Twelfth day of January A.D. 1967.

Present, HON. STANLEY H. FULD,
Chief Judge, presiding.

2 Mo. No. 21

CHAUNCEY REAL ESTATE CO. LTD., and SARAH M. STEWART, as Administratrix &c., of William A. Stewart,

Respondents,

vs.

LUCIEN R. THARAUD and CYNTHIA J. THARAUD,

Appellants.

A cross-motion having heretofore been made herein upon the part of the respondents to dismiss the appeal taken by the appellants in the above cause to this Court, papers having been submitted thereon and, after having heard Lucien R. Tharaud, Esq., in opposition thereto and there having been no appearance on the oral argument in support of said motion, due deliberation having been thereupon had, it is

Appendix B

ORDERED, that the said cross-motion be and the same hereby is granted and the appeal dismissed, with costs and ten dollars costs of motion, upon the ground that no substantial constitutional question is presented.

A copy

RAYMOND J. CANNON
Clerk

(SEAL)